

Ein cyf/Our ref ATISN 16423

6 September 2022

Dear

**Complaint in respect of Request for Information – reference ATISN 16423**

Thank you for your email of 8 August in which you asked us to review our handling of our response to your above FOI request.

You asked for copies of all valuations undertaken for Gilestone Farm prior to its purchase by the Welsh Government. In our response to you we withheld the information under Section 43(2), commercial interests, of the Freedom of Information Act 2000 (FOIA).

You state:

There cannot be any legitimate commercial reason not to supply the valuation of Gilestone Farm. That valuation would have been made to enable the Welsh Government to assess the value of the farm at that precise moment in time, and with whatever assets, money-making operations, and expected value were in existence on that date. Any future sale or lease of the farm will take place when a possibly very different value could be ascribed to the farm. Any future purchaser or lessee would undertake their own valuation at that point in order to decide whether to proceed with any purchase or lease.

The valuation done by Knight Frank cannot therefore affect any future commercial decision in any respect whatsoever, nor could revealing it compromise the Welsh Government's future negotiations in any meaningful way at all.

I have been provided with a copy of the valuation and considered our reasons for withholding the information. I find that the use of our exemption to withhold the whole of this report was much too broad, and I have made the decision to release the report. I apologise that the report in its entirety was withheld, when, in

fact, it can be released, albeit with some redactions where there are legitimate commercial interests.

I have thus prepared a redacted copy of the report which I am attaching.

Some information in the report has been redacted. I find that this information is exempt under Section 43 of the FOIA. The information relates to a commercial matter that is ongoing regarding a tenancy. I find that this information, and only this information, was correctly withheld in our response. My full reasoning for withholding this information is in Annex A of this letter.

If you remain dissatisfied with this response you also have the right to complain to the Information Commissioner at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Tel: 01625 545 745  
Fax: 01625 524 510  
Email: [casework@ico.gsi.gov.uk](mailto:casework@ico.gsi.gov.uk)

Also, if you think that there has been maladministration in dealing with your request, you have the option to make a complaint to the Public Services Ombudsman for Wales who can be contacted at:

Public Services Ombudsman for Wales  
1 Ffordd yr Hen Gae  
Pencoed  
Bridgend  
CF35 5LJ

Telephone: 0845 6010987 (local rate)  
Email: [ask@ombudsman-wales.org.uk](mailto:ask@ombudsman-wales.org.uk)

Yours sincerely

**Jason Thomas**  
**Director Culture, Sport and Tourism**

## **ANNEX A – Application of Section 43(2) Exemption**

### **Section 43(2), commercial interests, of the Freedom of Information Act 2000 (FOIA).**

Section 43(2) exempts information whose disclosure would, or would be likely to, prejudice the commercial interests of any person (an individual, a company, the public authority itself or any other legal entity).

Information in the valuation report that is being withheld refers to an ongoing tenancy matter, and disclosure of information within the valuation report would undermine Welsh Government's ability to conduct those negotiations, and would be likely to cause a loss to the authority and thus to the public purse.

Section 43 is a qualified (public interest tested) exemption and in order to engage it, I must show that the public interest in withholding the information is greater than the public interest in releasing it. I have therefore given consideration to the effects of disclosure of the information to the world at large, as the information is made available to anybody and everybody, not just the requestor. As such, when considering your request I have considered the wider effects of disclosure rather than any personal interest you may have in being provided with the information.

#### **Public Interest Test for Disclosure**

The Welsh Government recognises the public interest in openness and transparency within government, particularly in terms of ensuring an accountable government by disclosing how the Welsh Government spends public money and that the money is invested wisely. We also recognise that the matter in question is of wide public interest and that public scrutiny of the decision is legitimate.

#### **Public Interest Against Disclosure**

As described above, disclosure of this information undermine Welsh Government's ability to negotiate an ongoing matter, which would be likely to lead to a loss for the authority and thus for the public purse. It is not in the public interest that public authorities should have their ability to negotiate matters undermined by premature release of commercial information that would cause a commercial loss.

#### **Balance of the Public Interest**

There are strong public interest arguments for disclosure of this report, and I have taken the view that for the majority of the report, the public interest in disclosure outweighs any possible risk of loss. Nevertheless in this ongoing matter, I find that a loss would be likely to occur. I also take into consideration the

fact that the risk of loss would diminish once the matters are settled, and that our decision to withhold at this time is time limited, and could be reviewed in the future. The question, therefore, is not whether this public interest for withholding should be a permanent bar on disclosure, but whether the balance of the public interest favours disclosure now.

Because the information being withheld is limited, and the bulk of the information you have requested is being provided, and because the withheld information is only being withheld until matters are complete, I find the balance of the public interest favours withholding this information.